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ABSTRACT

A growing international consensus exists that societies have an obligation to promote and protect children's rights to survival, protection, participation, and development. These three essays consider UNICEF's role in implementing the 1989 United Nations Convention on the Rights of the Child. "The UN Convention on the Rights of the Child: More Than a New Utopia?" discusses obstacles to the effective implementation of the Convention, urging UNICEF and other organizations to take up the challenge of meeting the goals of the Convention. Three ways the Convention can be used to good effect are discussed, and four practical steps from the field of development or social planning for implementation of the Convention are identified. "Reflections on Indicators Concerning the Rights of the Child" discusses indicators that measure human rights performance relating to children in developing countries. Two initiatives of UNICEF's International Child Development Centre in Florence, Italy, are described, and types of indicators and reporting and monitoring processes are considered. "Children's Rights: Opportunities, Dilemmas and Pitfalls Facing UNICEF and Its Partners" suggests that UNICEF must strengthen its capacity to play a more active role in implementing the Convention. How this role is likely to involve UNICEF in controversial and politically sensitive issues is discussed, as are the negotiating, political, technical, and hands-on skills UNICEF must acquire to meet this challenge. (TM)

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INNOCENTI ESSAYS
No. 5

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD:

Three Essays on the Challenge of Implementation

James R. Himes

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"It is a shameful irony that the international community should approach the 21st century with so much capacity to save and to enrich people's lives while demonstrating so little practical will to do so. With the cold war fading into memory and democratic principles in full bloom, it is even more disturbing that human imagination should find expression in new atrocities, gratuitously inflicted upon others, and upon children and women in particular. That adult society should acquiesce by failing to pursue every means of redressing violations of human rights is unforgivable. The International Human Rights Covenants and the Convention on the Rights of the Child are unequivocal in their recognition of the indivisibility and universality of economic, social, cultural, civil and political rights, and yet nations in every region flout them daily ...

"Children's lives cannot be put on hold while adult society mulls over its obligations towards them. Public commitments have been made. Treaties have been written and ratified. The time to act is now.

From "UNICEF position paper for the World Conference on Human Rights", Vienna, June 1993

The opinions expressed are those of the author and do not necessarily reflect the policies or views of UNICEF.

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Children are the most politically powerless citizens of all nations. Infants and young children, especially, are also the most vulnerable. Consequently, there is a growing international consensus that societies' obligations to promote and protect children's rights to survival, protection and development deserve special priority both in development programmes and in human rights work. Children's rights to participation are also acquiring increased recognition, both as a legitimate reflection of children's abilities to think and speak for themselves, and also as an essential component of their preparation for participating responsibly in democratic societies.

Children's rights has been one of the main programme areas of UNICEF's *Innocenti Centre* (ICDC) in Florence since its establishment in 1988. With the entry into force of the 1989 United Nations Convention on the Rights of the Child, the work of the Centre in this field acquired increased urgency.

As UNICEF strengthens its capacity to play an increasingly active role in the field of children's rights, as needed to fulfil its new responsibilities implied by Article 45 of the Convention, the child rights work of ICDC has been focused largely on policy analysis for UNICEF and its principal partners, particularly in the area of implementation strategies and mechanisms, including for monitoring progress. Increasing attention is also being devoted to the interpretation and prospects for effective application of some of the key bridging articles of the Convention. Among these are Article 3 on the "best interests of the child"; Article 4 concerning implementation through the maximum use of "available resources"; and Article 2 regarding non-discrimination.

ICDC's first major activity in the area of children's rights was to commission a review of Norway's pioneering work in promoting and protecting children's rights through the Office of the Ombudsman for Children. This study was conducted by Målfrid Grude Flekkøy, the world's first Ombudsman for Children, who served as a Senior Fellow at the Centre for two years beginning late 1989. During that time she wrote her widely acclaimed book, *A Voice for Children*, which, in the words of Norway's Prime Minister Gro Harlem Bruntland, seeks to serve as "an inspiration to other countries in their work to develop national approaches to ensure better respect for children's rights".

Our second Senior Fellow in Florence was another outstanding authority on children's rights, as well as women's rights: Savitri Goonesekere, Head of the Department of Law, Open University of Sri Lanka. Among her activities at ICDC, she completed work on her book, to be published shortly, *Children, Law and Justice: A South Asian Perspective*. Another important contribution was her 'Innocenti Occasional Paper' *Women's Rights and Children's Rights: The United Nations Conventions as Compatible and Complementary International Treaties*.

Other early projects of the Centre included the commissioning of eight studies in countries where UNICEF-supported activities had integrated a number of the Convention's provisions into the regular process of development cooperation. The countries involved were Bolivia, Brazil, Burkina Faso, Egypt, Kenya, Mozambique, Sri Lanka and Thailand. The purpose was twofold: first, to provide concrete examples of child rights actions, tested in practice, that were both significant and feasible; and secondly, to enrich the array of policy options and practical implementation modalities available to UNICEF and its allies in following up on the new opportunities afforded by the Convention. The results of this project, including summaries of three of the most informative country studies, were published in the 'Innocenti Studies' series as: *The Convention: Child Rights and* UNICEF *Experience at the Country Level*.

Two ICDC-sponsored studies, published as 'Innocenti Essays', deserve mention because of their particular relevance for non-governmental initiatives in support of children's rights: *Child Advocacy in the United States – The Work of the Children's Defense Fund*, written by the Fund's

General Council James D. Weill, and *Children's Participation: From Tokenism to Citizenship*, by Roger Hart, Director of the Center for Human Environments, City University of New York. Our most recent publication, *Children of Minorities: Gypsies*, initiates a new series of studies on the growing spectre of discrimination, intolerance and racism affecting minority children and families in many parts of the world.

In publishing the three essays which follow, we would like to extend our Centre's special thanks to several of our colleagues from outside UNICEF whose work and whose advice have been a source of inspiration as well as professional enrichment for those of us at ICDC concerned with children's rights: our first two Senior Fellows – Målfrid Grude Flekkøy (Norway) and Savitri Goonesekere (Sri Lanka); the members of our external advisory group on children's rights – Luis Bambaren Gastelumendi (Peru), Said El Dakkak (Egypt), Thomas Hammarberg (Sweden), Philista Onyango (Kenya) and Professor Goonesekere; and Philip Alston (Australia), who, in addition to his many achievements and responsibilities concerning human rights in and outside the UN system, is the coordinator of a major ICDC-sponsored study on the legal principle of "the best interests of the child".

Advisory Group on Child Rights (right to left): Paolo Basurto, Deputy Director, ICDC; Said El Dakkak, Alexandria University and President, International Law Association; Philista Onyango, University of Nairobi and President, ANPPCAN-Kenya; Luis Bambaren, Bishop of Chimbote (Peru) and Member, UN Committee on the Rights of the Child; Jim Himes, Director, ICDC; Purificacion Quisumbing, former Chairperson, UN Commission on Human Rights and Senior Regional Adviser, UNICEF, Bangkok; Patricia Light, Information Officer, ICDC; Thomas Hammarberg, former Secretary-General, Amnesty International and Member UN Committee on the Rights of the Child; Per Miljeteig, Director, Childwatch International (Norway)

Målfrid Grude Flekkøy was the first Norwegian Ombudsman for Children (1981-1989) and also the first Senior Fellow at the UNICEF International Child Development Centre (ICDC). While in Florence, she completed her book *A Voice for Children: Speaking Out as their Ombudsman.*

Savitri Goonesekere is Head of the Faculty of Law, The Open University, Sri Lanka. As a Senior Fellow at ICDC, she completed several publications, including her forthcoming book *Children, Law and Justice: A South Asian Perspective.*

Philip Alston directs the Centre for International and Public Law at the Australian National University and is Chair of the UN Committee on Economic, Social and Cultural Rights. He is also coordinating a major study sponsored by ICDC on the principle of "the best interests of the child" in Article 3 of the Convention on the Rights of the Child.

THE UN CONVENTION ON THE RIGHTS OF THE CHILD: MORE THAN A NEW UTOPIA?[1]

INTRODUCTION

In November 1989, the United Nations General Assembly unanimously approved what the then Under-Secretary-General for Human Rights, Jan Martenson, has described as "one of the most important human rights instruments ever adopted by the international community"[2]: the Convention on the Rights of the Child (CRC). Following the required 20 ratifications, this Convention entered in force on 2 September 1990.

By mid-1993, 160 countries had either signed the CRC or had become States Parties to it by ratification or accession. No other international human rights covenant has been ratified so quickly by so many States. Many countries are now well advanced in the important task of examining the implications of the Convention in terms of their own legal norms and, sometimes, actual practices.

Enthusiastic comments on the Convention have come not only from child rights activists but also from world political leaders. The Convention has been described as nothing short of "the cornerstone of a new moral ethos for children", possibly a "milestone in the history of mankind", and an instrument stressing that "respect for and protection of children's rights is the starting point for the full development of the individual's potential in an atmosphere of freedom, dignity and justice"[3].

Somewhat more cautionary notes have also been struck. As committed a promoter of the significance of the Convention on the Rights of the Child as the former Norwegian Ombudsman for Children, Målfrid Grude Flekkøy, has written that "laws, national and international, are, after all, words on paper. They may codify attitudes, but the real results depend upon how they are implemented, what is done to follow up and to reach the ideals." In some countries, she notes, "there is either a distrust of the efficacy of legislation as a useful instrument or a tradition of disregarding the fine principles stated in law"[4].

OBSTACLES TO IMPLEMENTATION

There are, to be sure, many formidable obstacles standing in the way of effective implementation of the Convention on the Rights of the Child. Some of the barriers are culturally determined and have very deep roots. Examples include discriminatory attitudes and practices affecting the girl child in many countries in Asia and the Middle East as well as Gypsy, immigrant and other minority children in Europe and the United States; some traditional beliefs in Africa and elsewhere lead to highly dangerous practices affecting the survival and health of women and children. History has too often demonstrated that, although legislating against discrimination and dangerous traditions is useful, prohibition alone is rarely sufficient to change human behaviour based on deeply-ingrained prejudices and long-standing customs.

On the more legal side of the challenge of implementation, there are also numerous obstacles to be faced. One major problem is that this instrument, like most such international treaties, does not have any means of enforcement in the strict sense. The conventional UN monitoring procedures, moreover, are quite weak. On the other hand, as I will argue, the Convention can strengthen the prospects of more effective monitoring and enforcement of existing or new laws at the national level. An additional 'legal' prob-

1 This essay is adapted from Himes, James R., "Implementing the United Nations Convention on the Rights of the Child: Resource Mobilization and the Obligations of the States Parties" *'Innocenti Occasional Paper'*, UNICEF International Child Development Centre, Florence, Italy, November 1992. It also appeared in *'Cooperazione'*, Italian Ministry of Foreign Affairs, no. 122, February 1993.

2 Defence for Children International, *The United Nations Convention on the Rights of the Child: A Guide to the "Travaux Préparatoires"*, Detrick S. (ed.), Martinus Nijhoff Publishers, Dordrecht, The Netherlands, 1992, p. ix.

3 Grude Flekkøy, Målfrid, *A Voice for Children*, UK, Jessica Kingsley Publishers, 1991, pp. 214-218.

4 *Ibid.*, p. 219.

lem is the vagueness of the nature of the obligations of the States Parties in this and many other international treaties, particularly those concerning economic, social and other rights which cannot be achieved, especially in low-income countries, simply by immediate changes in government policies.

A further major obstacle to effective implementation of the Convention is one which is of special concern for UNICEF and other agencies involved in providing support for child-related programmes in developing countries. This challenge is the critical issue of "available resources", as included in Article 4 of the Convention:

> *With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.*

In terms of the history and politics of the Convention process, the reference in Article 4 to the "maximum extent" of "available resources" was included, as in other United Nations instruments, to allay the fears of official representatives that governments would be held responsible for achieving standards of children's well-being which are 'unrealistic' in terms of resource availability and within specific time limits, especially in lower-income countries. Several other articles of the Convention emphasize the resource constraint point, notably the references to "the highest attainable standard of health" (Article 24) and to "the right of the child to education, and with a view to achieving this right progressively" (Article 28). The history of these qualifying phrases, as well as a 'commonsense' interpretation of their meaning, has raised fears that they could become convenient excuses for justifying implementation performance falling well short of what might be reasonably expected in terms of accelerating progress towards meeting children's basic needs, as well as in promoting and protecting their rights as set forth in the Convention.

TAKING UP THE CHALLENGE

Rather than allowing the "available resources" provision and related clauses of the Convention to become a justification for poor performance, UNICEF, other agencies and NGOs concerned with child rights implementation and monitoring need to turn these clauses into opportunities for promoting and assisting governments and non-governmental partners to undertake the 'step-by-step' financial and human-resource planning required to ensure that the progressive achievement of children's rights represents real progress in meeting the challenging goals of the Convention. One way to help in this process is to ensure adequate documentation and dissemination of the results of positive experiences – approaches which have worked in spite of serious resource constraints.

The starting point for a clear and constructive interpretation of the reference to "available resources" in Article 4 must be a broad definition of resources. It is vital that such an interpretation move beyond a restrictive concept which focuses only on the financial resources of governments, which sometimes means just central governments, to a more far-reaching interpretation explicitly recognizing the availability and potentially increasing significance of resources – economic, human and organizational – at all levels of society, from the family to the international level. However, recognition of the existence of "available resources" at the family level should not be used to overburden low-income families, often female-headed, with increased responsibilities for child survival, protection and development, beyond what can be realistically expected in terms of their contributions. Recognition and understanding – not exploitation – of the crucial roles of women in realizing children's rights is also essential.

A TOOL FOR CHANGE

In approaching the question of how the Convention can be converted from a declaration of intentions or aspirations into an effective tool for promoting the well-being of children and ensuring the fulfilment of their rights, recognition needs to be given to the enormous variation among the States Parties in terms of how 'uto-

pian' this treaty really is. The Convention has been ratified by countries such as Canada, Germany and Sweden, which have per capita incomes in the range of US$20,000, highly advanced systems of education and child care, public health and social assistance and under-five mortality rates of less than 10 per thousand live births. States Parties also include many of the poorest countries in the world, including Bangladesh, Nepal and Sudan, where the under-five mortality rates are close to 200, and no more than a quarter to a third of the adult population is literate. Each country will need to determine where and how the Convention can best be used to help meet the needs of children, including for the development of their full potential. Wealthy countries, especially, also need to decide how the Convention can be used to ensure more adequate international cooperation to address the needs of the poorest children in the world.

In spite of the enormous variation in the situation of children in countries which have ratified the Convention, there would appear to be, in general, three types of practical ways this instrument can be used to good effect.

First and foremost, in most settings, the Convention can be a powerful political tool to help increase the awareness and understanding of children's problems and rights plus the political will needed to address these problems effectively. However, its role as a political tool can only be fully realized if the Convention and its provisions are reasonably well known among the broad public. An active role for many non-governmental as well as governmental organizations is important for promoting a better understanding of the Convention as well as existing laws, policies and practices at the national and subnational levels relating to children's rights and well-being. The importance of public participation will be greater in more democratic political systems, but political pressure works in one way or another in all systems. In working towards a sustained commitment to children's rights, and the achievement of intergenerational equity, it is critical that children themselves, both as young citizens with rights of their own and as future adults and parents, participate in this process of building awareness, understanding and involvement relating to children's rights.

Secondly, as a legally binding instrument, the Convention can be used in many countries to strengthen existing laws and regulations which are of particular importance for children, as well as to secure more effective enforcement of these rules and standards. In some cases, there are ambiguities or inconsistencies between this international instrument and national laws which need to be resolved. In accordance with relevant articles of the Convention, as well as other international human rights covenants, these conflicts need to be addressed with "the best interests of the child" as the primary consideration (Article 3) and in a way which ensures that the highest standards of the applicable international or national laws prevail (Article 41). Most of this work needs to be done in the legislatures, state and municipal councils and in the courts of the States Parties. It inevitably involves complex legal and regulatory processes and the work of lawyers, judges and other specialists. Overcoming legal obstacles to the progressive achievement of children's rights, as well as the active use of legal processes to implement the Convention (for example, through legal aid, social action litigation or 'public interest law') will be more feasible if political will, as mentioned earlier, has been generated.

Thirdly, the Convention – and human rights work more generally – can become much more of a tool for public policy work relating to the more 'human side' of development. Put more in terms of the contemporary language of development work, concerns for human rights (including the rights of children) need to be brought closer to strategies for human development. Viewed from this perspective, the achievement of human rights becomes an important element in achieving goals of social and economic development, but also a critical goal in itself. Both the development goals and the means of achieving them acquire strong and valid standing in society. This last point, less commonly made with regard to the Convention on the Rights of the Child than the first two points, may need some further elaboration.

An important movement is underway which aims to narrow the gaps in understanding between those in recent decades who have been concerned with the advancement of human rights and those concerned with development. One especially significant expression of this trend, within the UN family, is the work of the United Nations Development Programme (UNDP) in its annual *Human Development Report*. In spite of this and a few other initial efforts, however, very

little has been done to try to bridge the enormous gulf foolishly separating the achievement of 'human rights' (or 'human freedom', as some prefer) from the fulfilment of development, especially 'human development', objectives.

On the human rights side of this 'gulf', it is noteworthy that the mainstream independent human rights organizations, based largely in Europe and the United States, have tended to avoid the sort of activism and practical work in the area of social and economic rights ('development' concerns) which have characterized their involvement in the protection of civil and political rights. In some cases, of course, notably the position of the United States Government, there is a strong denial that there is any such thing as economic, social or cultural rights.

A FOUR-STEP IMPLEMENTATION STRATEGY

A number of practical steps can be borrowed from the field of development or social planning to help ensure more effective implementation of the Convention. Planning, management and monitoring child rights work by objectives is a key element of this approach. Effective popular and community participation is another critical component. A four-step implementation strategy for this approach might be briefly described as follows:

Situation Analysis

The essential first step in developing an implementation strategy for work in child rights is to ascertain, as precisely as possible, the nature of the existing situation with respect to each right, in order to identify more clearly the problems that need to be addressed. Good baseline data, appropriately disaggregated (including by categories such as gender and ethnicity needed to identify patterns of discrimination) are essential to an effective system of monitoring compliance with the Convention's provisions. Participatory planning approaches, especially important in the area of children's rights, need to involve households and communities in the situation analysis process. Children and youth can be effectively involved as well, helping them to develop their capacities to responsibly exercise their rights to participate as young citizens in society.

Goal and Standard Setting

Effective planning for action in the human rights field, as in other areas of public policy, requires the setting of standards and agreement on goals; rights (especially economic, social and other rights requiring achievement "progressively") need to be converted into verifiable goals or objectives, achievable within agreed time frames. Some goals, such as universal primary school enrolment, can be quantified more easily than others, e.g., eliminating "discrimination of any kind". But specific and even binding standards have been set by legislatures and courts even in the more difficult areas. Goals and standards are much more likely to be viewed as legitimate, and indeed as 'rights', if a broad and genuine consensus in society is reached regarding these goals. Once again, children should be a part of that emerging consensus.

Plans and Programmes of Action

Different countries have widely varying approaches to social or development planning, but most systems (including various international systems) have some capability of developing concrete plans or programmes for action to achieve agreed goals. Countries which have developed strong National Programmes of Action (NPAs) following the 1990 World Summit for Children, including cost estimates and financial plans, have a good basis for implementing many of the key provisions of the Convention. One of the advantages of the Summit and NPA commitments to children, from the perspective of the Convention, is that they can be used to provide concrete and verifiable indicators of whether a State Party is meeting the minimum core obligations central to the achievement of the survival and development rights of children. Attention must be given to a broad array of legislative, administrative, judicial, regulatory and other measures at all levels of government, needed to achieve the goals or attain the standards which have been agreed. For many of the objectives linked to the Convention, goals and specific measures to realize them need to be

developed, whenever possible, at the municipal and other levels of government closest to families and children. Plans can include an active role for the private or non-governmental sector. Realistic plans and programmes must recognize clearly that fulfilment of nearly all rights has significant resource implications. Feasible measures for the mobilization of all "available resources" – economic, human and organizational – need to be specified, including through international cooperation where required.

Monitoring Compliance and Enforcement

A mix of official and non-governmental monitoring mechanisms (national and international) is important to help ensure that goals are being reached and the legal rights and duties of all relevant parties are recognized, understood and enforced. Understanding rights needs to reach the level of communities, families and children. Monitoring, which must also reach those levels to be useful, is much more effective when based on widespread popular understanding of the relevant goals and rights. Especially at the international level, a non-adversarial 'constructive dialogue' among the relevant parties, led by the UN Committee on the Rights of the Child, is likely to be the most accepted form of monitoring. At the national and subnational levels, however, strong incentives, including financial incentives, for compliance, as well as significant penalties for non-compliance, will be essential complements to an effective system of monitoring progress in achieving the agreed child rights objectives, as provided in the Convention.

An approach of the sort described, adjusted to the circumstances and capacities of different countries, can help ensure that the progressive achievement of the goals of the Convention on the Rights of the Child leads to more than just another illusory utopia in the realm of human rights.

REFLECTIONS ON INDICATORS CONCERNING THE RIGHTS OF THE CHILD

THE DEVELOPMENT AND HUMAN RIGHTS COMMUNITIES SHOULD GET THEIR ACTS TOGETHER[1]

THE NEED FOR POLICY-RELEVANT AND ACTION-ORIENTED INDICATORS

I have taken my cue for this paper from several of the key words in the title of this seminar: **appropriate indicators** to **measure achievement** in the **progressive realization** of economic, social and cultural rights. This paper is concerned with issues of indicators of human rights performance, particularly relating to children, largely in developing countries. The word "appropriate" therefore suggests to me that the relevant indicators, and underlying data collection processes, need to be reasonably inexpensive to develop and maintain over time. The reference "to measure achievement" carries the implication of using indicators as part of ongoing monitoring systems – hopefully aimed, in a practical fashion, at improving performance over time and not just to highlighting shortcomings and violations of rights. That important point is also emphasized by the reference to "progressive" realization of rights.

Although this seminar is concerned largely with economic, social and cultural rights, I would urge that we not completely exclude the area of political and civil rights from our deliberations, including follow-up steps which may need to be taken. There are numerous reasons for this suggestion, including the point that Philip Alston and others have been making, that this distinction is not turning out to be a very useful one for public policy or human rights work. From the vantage point of the Convention on the Rights of the Child, UNICEF and others have been stressing the point that this instrument moves beyond that often contentious distinction. My own view is that the distinction is especially flawed when combined with assumptions that economic and social rights are inherently very demanding in terms of resource requirements, while civil and political rights are not. Regarding indicators, moreover, there has been much more attention to this subject in the economic and social fields than in the civil and political area. Regarding children's rights in the more 'political' or 'participation' domain, there is in fact a remarkable lack of attention to this subject – making it very difficult, for example, for the new UN Committee on the Rights of the Child to monitor progress in the achievement of Articles 12-14 of the CRC (concerning culturally sensitive issues such as the child's right to have her or his opinion taken into account in any matter or proceeding affecting the child, freedom of expression, and freedom of thought, conscience and religion).

I will refer only briefly to an important set of distinctions, amply developed in the economic and social policy literature, between **process** or **input** indicators, on the one hand, and **output** or **impact** indicators, on the other (or, as some prefer, between the matter of **social outputs** vs. **social outcomes**). The policy maker or human rights monitor should be ultimately concerned mostly with outcomes – or with the actual impacts of state or societal action (or inaction) on human well-being (including the enjoyment of human rights). The problem is that measuring actual outcomes or impact of policies or practices is generally more difficult and more expensive than measuring inputs, processes or indirect indicators of impact. Health service coverage is easier to measure than the actual health status of individuals. School enrolment can be monitored more easily than trends in the cognitive development and educational achievements of children. Laws and regulations to prohibit discrimination can be followed more readily than their impact on the attitudes and practices of parents, educators, employers and government officials.

One of the implications of the previous point, especially keeping in mind the severe resource limitations facing many developing countries, is

1 This paper is an expanded version of an oral presentation made to the Seminar on Appropriate Indicators to Measure Achievements in the Progressive Realization of Economic, Social and Cultural Rights, held in Geneva, 25-29 January 1993. A Report on that Seminar, including a list of papers presented, is available from the United Nations as document A/CONF.157/PC/73 (20 April 1993).

the importance of taking full advantage of those indicators where the correlation between an input indicator and a desired (and important) outcome is quite close and relatively easy to measure. A good example is vaccination of children, where there is a high correlation between the measurable act of vaccinating and the desired outcome (effective protection from serious infectious diseases). Notoriously poor indicators in this sense are gross primary school enrolment rates – which not only fail to measure such essential desired outcomes as literacy and numeracy but often, in poor educational systems. measure as much the presence of over-age students (repeaters) in the early grades of school as they do the percentages of school-age children in the appropriate classes of school. This point also underscores the importance of encouraging work on improving our understanding of the causal relationships among key variables relating to the kinds of indicators with which we are concerned.

One of the reasons why the subject of indicators in the area of economic, social and cultural rights is so complex relates to the complicated multi-level nature of the causes underlying 'breaches' of these rights. (It should be noted that the causes of violations of political and civil rights are often far more complex and deep-rooted than is sometimes assumed, but that issue goes beyond the purposes of this paper.) In matters concerning children's rights, behind most of the rights or deprivations specified in the CRC, there lies a long sequence of interrelated causes. Child mortality, disease and malnutrition, as dealt with in Article 24 of the Convention, are the result of many causes, often difficult to separate. The **immediate causes** of child death and poor development in low-income countries are generally malnutrition and infectious diseases. **Underlying causes** are likely to be poor household food security and inadequate maternal and child care, linked partly to low levels of family income but also to inadequate parental (especially maternal) education, unsafe water supplies and poor sanitation. More **structural causes** include deep-rooted cultural beliefs and practices (sometimes especially negative for girl children), fundamental weaknesses in political or economic institutions and infrastructure, and levels of natural and other resources available to societies.

Although human rights activists can and should advocate, lobby, seek media attention and 'create a fuss' about the more structural causes underlying inadequate achievements (or 'violations', if one prefers) regarding economic and social rights, a realistic recognition of the limits of international human rights law and supervisory mechanisms should make it clear that only very modest contributions, at least in the short or medium term, can be expected from these instruments in terms of addressing these deep-rooted causes. On the other hand, both at the national and the international level, considerable progress can be expected from a carefully devised strategy to address the immediate and some of the underlying causes responsible for poor performance in the area of economic and social rights. Indicators can (indeed must!) play an important role in devising and implementing operational strategies for this sort of results-oriented human rights work in the economic and social spheres. For example, although very important for other reasons, I doubt that there is much ground to be gained, **in terms of international human rights law**, from further development of the World Bank's statistics on income distribution or the UNDP efforts to make its Human Development Index more sensitive to income inequalities through the use of Gini coefficients. On the other hand, the indicators formulated by UNDP, UNICEF and others concerning female-male gaps in areas such as primary school enrolment or literacy rates certainly represent a very important set of tools for practical work on women's rights as well as children's rights.

A better understanding of the causes lying behind economic and social problems, including human rights issues, is essential for the development of more **preventive approaches** to dealing with these problems. Here again, indicators can play a role. Specialists ranging from economists to meteorologists are aware of the importance of 'leading indicators' or 'early warning' systems. Public health specialists have devised numerous indicators to identify 'at risk' individuals, families and communities. The human rights field needs to borrow and adapt experiences from this type of initiative. For example, to return to Article 24 of the CRC, two very specific indicators cited there are infant and child mortality (the infant mortality rate, IMR, generally measured in

terms of deaths of infants under one year of age per 1,000 live births, and 'child mortality' being the number of deaths of children aged 1-4 per 1,000 children in the same age group). Even though the other side of the coin of infant and child mortality is child survival, a mortality indicator naturally tends to focus attention on failures of systems to ensure a child's right to survive. It says nothing *per se* about the causes of such failure (although specialists can usually recognize the immediate causes from the levels of the rates). Fortunately, however, Article 24 of the CRC also includes several references to specific problems which are closely linked to the challenge of **preventing** infant and child deaths, namely "appropriate pre-natal and post-natal health care for mothers", knowledge of the "advantages of breast-feeding, hygiene and environmental sanitation", "the provision of adequate nutritious food and clean drinking water" and "family planning education and services". Specific indicators, many of which have been standardized to facilitate both international and subnational comparisons, as well as time series, have been formulated in a number of these areas of preventive primary health care for mothers and children. Simple measuring tools for infant and young child growth monitoring have been developed, for example, on the basis of appropriately standardized norms of weight for age and height for age.

To the extent that we are concerned with the rights of people to **participation** (and UNICEF and a number of NGOs, especially, are certainly interested in children's rights to participate), our search for better indicators in the human rights field should be guided at least partly by another important consideration: the desirability of encouraging the development and more extensive use of indicators where the primary-level collection and processing of data can be done with the active participation of those whose collaboration is essential to addressing the problems which the indicators seek to measure. Examples include the involvement of midwives or traditional birth attendants in determining the incidence of low birth weight (under 2.5 kilogrammes); involving mothers in keeping growth charts to track the weight gains of their infants or their children's immunization records; and the involvement of children and youth in developing strategies, including monitoring tools, to deal with problems such as adolescent pregnancies or drug abuse.

UNICEF'S ROLE IN THIS AREA

It will not be possible here to cite all the various ways through which the work of UNICEF might be relevant for the concerns of this seminar. My comments will be limited largely to several relevant points concerning: (a) the complementarity – and relevance for indicators – between the implementation of the Convention on the Rights of the Child and of the National Programmes of Action for Children, being developed following the 1990 World Summit for Children; (b) the importance of national capacity-building for monitoring progress on both of these fronts; and (c) the key role of good baseline data and 'situation analyses' as part of any strategy for advancing the cause of human rights, including the rights of the child.

The CRC entered into force, coincidentally, in September 1990 – the same month that over 70 Presidents and Prime Ministers came together in New York for the first World Summit for Children. A total of 159 countries agreed to a Plan of Action for Children which includes very specific goals and targets for children. Since then, more than 80 countries have developed reasonably detailed National Programmes of Action (NPAs), including target dates and resource requirements, to translate the goals into operational approaches. About 60 more countries are in various stages of preparing NPAs.

In many respects the Summit Plan of Action and the subsequent NPAs are complementary to the concept of the progressive achievement of the provisions of the Convention, especially for low-income developing countries. The more complete NPAs have the advantage of providing very specific standards and targets, within given time frames, by which performance can be monitored. This concreteness will be especially useful in the areas of child health, nutrition and basic education, where the provisions of the Convention, as a global and 'timeless' instrument, are necessarily quite general. There are other areas, however, especially concerning the rights of children to protection and participation, where the Convention represents much more of

a practical tool for implementation than the Summit Plan of Action or even many of the NPAs. On the complex set of issues relating to "children in especially difficult circumstances", such as working and street children, no specific target was developed for the Summit Plan of Action beyond a general reference to the need to "provide improved protection of children in especially difficult circumstances and tackle the root causes leading to such situations". The Convention, on the other hand, in addition to being linked (through Article 41) to any higher standards in national or other international laws, provides for protection against a wide range of child abuse and exploitative practices. Certain prohibitions are appropriately unqualified, such as child prostitution and child pornography and capital punishment for offenders under 18.

Throughout the decade of the 1990s, UNICEF will be heavily engaged in helping to monitor progress towards the achievement of the agreed goals and targets for children, especially in developing countries – but also, including through our network of National Committees, in some industrialized countries. In doing so, our Executive Board and a number of our major donor Governments have encouraged us to give more attention to strategies which **strengthen national capacities** for monitoring and evaluating progress. Especially given the limited human, organizational and financial resources available for programme monitoring (or for human rights monitoring) in most developing countries, it is essential that efforts to monitor what might be described as 'development' goals be coordinated with the objectives of human rights treaties such as the CRC. This is not to say that 'development' indicators and monitoring tools will be the same as those needed for 'human rights' work. At least in the area of economic and social rights, however, many of the indicators need to be based on much the same primary-level data which must be collected and processed. Expensive duplications at this level must be avoided whenever possible. More positively, efforts to strengthen local capacities to generate and monitor these data must be sensitive to the needs of both the 'development' and the 'human rights' communities concerned.

Since some human rights concerns are especially sensitive politically, it will be important to strengthen international and national NGO capacities to collect reliable information in areas governments may seek to ignore or deliberately distort. When UN agencies such as UNICEF encounter difficulties in supporting independent non-governmental work on indicators, NGOs (including labour, religious and women's groups or private foundations) may still be able to do so.

A report to UNICEF's Executive Board in 1991 on UNICEF's *Role in the Implementation of the Convention on the Rights of the Child* (E/ICEF/1991/L.7) is very explicit on several points relating directly or indirectly to the subject of indicators. Within the framework of UNICEF's country-level approach to programming, UNICEF support is foreseen, for example, for the "creation or further development of national mechanisms to gather gender-specific and area-specific data on children which can be used as a basis for policy development and for States' reports on compliance with the Convention". This policy paper further notes:

> *As countries deal more effectively with the most basic needs of their children, programming requires the development of appropriate indicators for measuring the quality of life improvements for children. In some instances, the major share of UNICEF investments is likely to shift towards support for gathering and disseminating information at national and regional levels, to develop a critical body of knowledge on issues affecting children and to promote popular understanding of the vision of children's rights embodied in the Convention.*

In a number of countries, Brazil being a notable example, UNICEF has been working for years both with the official census and statistical authorities as well as with NGOs (including in sensitive areas such as street and working children) to improve the statistical and other information bases necessary both for effective policy development and for monitoring the situation and rights of women and children.

Each cycle of UNICEF's country approach to programming our cooperation with developing countries begins with a comprehensive Situation Analysis of children and women. Once viewed

as a study to be completed roughly every five years, the Situation Analysis in many countries is now seen more as a continuous process, feeding statistical and other information into the implementation phase and facilitating necessary modifications in ongoing programmes. For monitoring purposes, however, it is still important to choose and maintain an appropriate baseline, which generally needs to be selected in terms of the availability of census data, periodic household surveys or the collection of administrative statistics. It is now explicitly foreseen in UNICEF's guidelines for country programme cooperation that the Situation Analysis should contribute to the monitoring of the Convention on the Rights of the Child, as well as the implementation of the post-Summit National Programmes of Action for Children.

The UNICEF Situation Analysis guidelines contain a number of specific references which are pertinent in terms of human rights indicators and monitoring concerns. For example, these following points are listed among the "general principles" underlying good Situation Analyses:

Trends and prospects: Whenever possible the analysis should give not only a still photo, but indicate past trends and future prospects. Has the situation deteriorated? What is the time frame for possible improvements?

Disaggregation: It is important to identify critical variations in the situation which may be masked by aggregates and averages. These may occur among regions, cultural groups, socio-economic groups, rural, nomadic, and/or urban poor as against other urban groups/areas and females as opposed to males.

Informed opinion: The views of informed and experienced people are a main source. Of course, 'conventional wisdom' should not be accepted uncritically. Statistics and surveys are used where possible to verify it, and to the extent that this cannot be done, programme monitoring may be designed to collect the necessary data.

Sensitive subjects: There may be certain topics that are not acceptable to be treated in the Situation Analysis, e.g., extent of malnutrition, extent of abortion, female excision, child abuse, AIDS, lack of development programmes for certain ethnic groups, etc. Government officials may not be able to join in either the collection of data, or its analysis. However, the Convention enjoins upon UNICEF the responsibility to help analyse and monitor all the rights and it may be possible for UNICEF to collect data or gather them from secondary sources, and analyse them.

On this important point regarding the sensitivity of certain data and indicators (and this sensitivity can cut across conventional distinctions between political/civil rights and economic/social rights), it is important to keep in mind that governments are rarely monolithic in terms of their resistance to recognizing certain problems. Public health officials, for example, are quicker to recognize the importance of objective and reliable reporting on AIDS or child prostitution than the senior political leadership of a country may be. A Labour Ministry, as opposed to a Commerce Ministry, may be an ally in recognizing and dealing with the problem of the exploitative and hazardous employment of children. Intergovernmental agencies are often simply too timid to take full advantage of these potential 'openings' for the more complete documentation and analysis of sensitive problems of a 'development' or 'human rights' sort.

TWO INITIATIVES OF UNICEF'S INTERNATIONAL CHILD DEVELOPMENT CENTRE, FLORENCE

Monitoring Social Policies and Conditions in Eastern Europe

Although most of UNICEF's work is concerned with developing countries, we have been authorized by our Executive Board to assist countries of central and eastern Europe in a variety of ways in response to the current emergencies in several countries and during the complex transition to the market economy underway in that region. As part of this cooperation, UNICEF's Innocenti Centre in Florence has sponsored a number of policy studies on problems affecting children and women in that region. These include a book published in 1991 entitled *Children and the Transition to the Market Economy: Safety Nets and Social Policies in Central and Eastern Europe* (Giovanni Andrea Cornia and Sandor Sipos, (eds.), Avebury/Gower Publishers). These studies are now being fol-

Selected Indicators from UNICEF's Annual *State of the World's Children* Reports

(of particular relevance in terms of economic and social rights of children and women)

Note: Further disaggregations often available in national and subnational reports

Table References in the Reports

1. BASIC INDICATORS

- Under-5 mortality rate*
- Life expectancy at birth (Table 7 provides male/female gap)
- Total adult literacy rate (Table 7 provides male/female gap)
- % share of household income (lowest 40% / highest 20%)

2. NUTRITION

- % of infants with low birth weight
- % of children (0-3 months) exclusively breastfed
- % of children (0-4 years) underweight
- % of household income spent on food

3. HEALTH

- % of population with access to safe water (rural/urban)
- % of population with access to health services (rural/urban)
- % of 1 year-old children fully immunized
- % of pregnant women immunized against tetanus

4. EDUCATION

- Net primary school enrolment rate (male/female)
- % of grade enrolment reaching final primary rate
- Gross secondary school enrolment rate (male/female)

5. DEMOGRAPHIC INDICATORS

- Total fertility rate (Table 10 shows rates of reduction)

6. ECONOMIC INDICATORS

- % of population below absolute poverty level (rural/urban)
- % of central government expenditures for health/education/defence
- Official development assistance (ODA) as % of recipient GNP
- Debt service as % of exports

7. WOMEN

(in addition to above indicators and breakdowns)

- Contraceptive prevalence
- % of births attended by trained health personnel
- Maternal mortality rate

* A note on p. 83 of *State of the World's Children 1993* explains why UNICEF has chosen the under-5 mortality rate (U5MR) as a principal indicator of children's well-being. Rates of progress, as well as rates needed to achieve the World Summit goal for the year 2000, are shown in Table 10 of the report.

lowed up with a project to monitor the social policies and conditions in central and eastern Europe during the transition. A computerized database is being developed, based on a relatively large series of statistics (drawing primarily on household surveys, vital registration systems and administrative statistics) for nine countries. The data will be compiled and analysed, as much as possible on an internationally comparable basis, and periodic publications of the results will begin in September 1993. In a number of countries, considerable disaggregation is likely to be possible, including by household income groupings and by family characteristics. Information on certain social problems of considerable relevance for human rights monitoring will be included, where possible: for example, crime rates, juvenile delinquency rates, drug and alcohol addiction, early pregnancy and child prostitution.

Among other uses, we hope that this effort may serve as a helpful example for other countries, including middle-income developing countries with reasonably satisfactory social statistical bases. This experience may also be relevant for a number of low-income former centrally-planned economies, which may be interested in following the 'transition' in eastern Europe, including the social and human rights dimensions. We would be pleased to make further information about this project available to those who may be interested.

An Information Base on Children's Rights

Responding to specific requests, including from members of the new UN Committee on the Rights of the Child, our Centre has put forward a proposal regarding the creation of an international database on children's rights. As a first step in this proposal, we commissioned a survey to determine what information-handling capacity on children's rights already exists within UNICEF and other intergovernmental organizations. The survey was undertaken by Laurie Wiseberg, Executive Director of the Ottawa-based organization, Human Rights Internet. A number of UN agencies represented here participated in this survey and provided helpful suggestions. The results of the survey were presented to a small expert group of information handlers and end-users who met at our Centre in early March. A similar survey is being undertaken for NGOs and other institutions concerned with children's rights, including research centres. The information gathered could form the basis for an organizational database on children's rights which would be the cornerstone of a much-needed information system in this area. Special efforts will be required to ensure that key institutions in the 'South' as well as the 'North' are included both in the initial surveys and in subsequent children's rights information management and networking activities.

CONCLUDING REMARKS

A number of the background papers prepared for this seminar note the difference between development indicators and human rights indicators. At times, however, there seems to have been a tendency to associate 'development' mostly with conventional 'economic' development and 'human rights' primarily with political and civil rights. To the extent that we are concerned in this seminar largely with economic **and social rights** (however valid or useful these distinctions are), the differences between 'development' indicators and 'rights' indicators are less clear. As Thomas Hammarberg points out in his paper, a rights approach does tend to put an emphasis on obligations, as opposed to conditions. The paper by Thomas Jabine and Denis Johnston notes correctly that "the essence of reporting on economic, social and cultural **rights** (as distinct from **conditions**) consists precisely in the assessment or evaluation of the disparities revealed by the selected indicators". But the types of indicators and underlying statistical information we are seeking for these two purposes are not so different as: (a) the use to which they are to be put (i.e., for 'rights' indicators: to monitor the extent of compliance with or progressive realization of binding international standards); and (b) the degree of disaggregation – and associated technical issues of sampling size and techniques – necessary to determine disparities or inequities by various population subgroups. (This second point, incidentally, should be of more concern to the 'development' community than it generally is – at least for those who are concerned with the distribution of the benefits and the costs of 'development'.)

It is a valid criticism of many 'development' specialists, especially orthodox economists, that their favourite indicators often tend to ignore measures of social deprivation and the conditions of marginalized groups. But that is no reason to damn all 'development' indicators from a human rights perspective. The panel on p. 18, for example, lists a number of development indicators, published annually in UNICEF's *State of the World's Children* reports, which are of considerable relevance for human rights work since most of them tend either to highlight disparities or reflect especially the social conditions of the poorest and more marginalized groups within countries.

A more productive strategy for human rights advocates would be to join forces with many potential allies, in fields such as public health, nutrition, basic education and ecology, who are also concerned with the conditions of vulnerable, marginalized, minority and other disadvantaged groups. Their vocabularies and operational strategies are distinct from those traditionally used in human rights work. But powerful professional and political alliances could result from closer collaboration among these diverse groups.

In the specific area of children's rights, it is important to note that there is already a great deal of data, especially at the national and subnational levels, which can be very useful in terms of indicating disparities, issues of access to social services, and rough measures of discrimination affecting children of certain subgroups. Many of these statistics, however, are incomplete (i.e., either in terms of time series or the extent of coverage) and may not lend themselves to valid international comparisons. Consequently (and sometimes also for reasons of political sensitivity), aggregates like national averages are not always published in worldwide summaries such as the statistical tables of UNICEF's annual *State of the World's Children* reports. For organizations such as UNICEF and many NGOs, however, which have substantial in-country presence and country approaches to their programmes of cooperation, there can be considerable benefits derived in terms of human rights monitoring from the further development and better use of these locally available data. With time and some considerable effort, it should be possible in many areas currently neglected to improve the reliability of the data and of trends over time, as well as the validity of international comparisons.

To return to the example of infant and child mortality rates, there is no major technical reason why more use cannot be made of these kinds of indicators to measure disparities and to suggest patterns of discrimination, abuse or neglect. Reasonably accurate mortality rates are available, for example, for black children in the United States, Gypsy children in Italy and probably even for Quechua children in Peru or Kurdish children in Iran, Iraq and Turkey. The problem lies not so much with the indicators as with the lack of political will to act on the basis of the unpleasant truths which are indicated.

On a final note concerning the importance of disaggregation and identification of disparities (and hopefully disparity reduction over time), I would join others in calling attention to the need to improve the initial guidelines for reporting by States Parties to the Convention on the Rights of the Child (CRC/C/5, adopted by the Committee on the Rights of the Child in October 1991). The need for disaggregation is explicitly mentioned in these guidelines only with reference to children in certain circumstances identified in the "family environment and alternative care" section (such as homelessness, children in protective custody and those in foster care arrangements). In other major areas of concern such as basic health and welfare, and education and cultural activities, the need is not specified for disaggregation according to groups which may suffer from discrimination or other disparities. Regarding statistics concerning several major areas of economic and social rights, States Parties are simply encouraged "to provide additional relevant statistical information and indicators relating to children". UNICEF, together with various statistical offices of the United Nations, could usefully collaborate with the Committee and the UN Human Rights Centre in designing standard statistical tables and instructions to improve these guidelines. To avoid duplications and assist in country-level capacity-building, it is also important to take full advantage of already existing reporting and monitoring processes supported within the UN system.

CHILDREN'S RIGHTS:
OPPORTUNITIES, DILEMMAS AND PITFALLS FACING UNICEF AND ITS PARTNERS[1]

INTRODUCTION

The United Nations system, facing more public scrutiny and higher expectations than at any time in its history, has three major and interrelated functions – three legs if you like – on which we will either take proud strides forward or barely stumble along: (1) its capacity to contribute to peacekeeping, international security and conflict resolution; (2) its ability to cooperate effectively with low-income countries, especially the least developed, in their quest for sustainable economic and social progress; and (3) its capability to promote and help ensure the achievement of accepted international standards of human rights.

The UN is currently attempting to move forward, rather awkwardly, on three legs of very different lengths and degrees of dexterity. By far, the weakest of our limbs is an almost atrophied capacity to be effective, as an overall system, in the area of human rights. UNICEF is no exception although part of the explanation in our case relates to the fact that, until the 1989 Convention on the Rights of the Child, we were either not encouraged by our Executive Board and our governmental counterparts, or were even explicitly discouraged, from becoming involved in most human rights issues, especially those of a politically sensitive nature.

Criticisms of United Nations work in human rights are mounting, but they are still somewhat muted, partly because most of the criticism is currently directed at the UN's extremely difficult peacekeeping challenges. There may also be a general awareness that the Member States of the UN are not doing very well in the human rights area either. Indeed, Members sometimes find it convenient to push sensitive human rights questions into some dark corner of the UN system, fully aware that they will languish there indefinitely. One of the more serious commentaries and constructive criticisms can be found in an important volume Philip Alston has recently put together on *The United Nations and Human Rights: A Critical Appraisal* (Clarendon Press, Oxford, 1992), on which I will draw later in this Lecture. Official and semi-official commentaries, though inevitably more cautious, are nevertheless beginning to sound an alarm regarding the need for reform. In preparation for the World Conference on Human Rights opening today in Vienna, a high-level international colloquium convened at the Carter Center in the United States in January of this year, chaired by the former US President, concluded that, in spite of the participants' "satisfaction" with the development of an "impressive body of human rights standards" and a "sophisticated machinery for carrying out its human rights mandate", nevertheless:

> *There was general concern about U.N. failure to adequately address many situations of gross human rights violations, lack of adequate resources for U.N. human rights activities, weak coordination between various components of the U.N. human rights system, lack of political will by many governments to implement U.N. human rights standards, lack of universal ratification of human rights treaties, and absence of effective mechanisms for the equal implementation of economic, social and cultural rights.*
>
> *The double standard approach of many governments was noted as an extremely serious form of undermining of the human rights movement especially when practiced by states claiming to be its vanguard.*

Among its recommendations, the **Atlanta Statement** resulting from the January colloquium called for a "quantum increase" in the "grossly inadequate financial and human resources" available to the UN Human Rights Centre in Geneva, which accounts for less than one per cent of the UN's budget and 0.75 per cent of its staff.

1 Sixth Annual UNICEF Lecture, sponsored by the UK National Committee for UNICEF; delivered in London, 14 June 1993.

UNICEF neither should nor will be at the very centre of the strengthened UN capacity for human rights work, which we hope will begin to emerge following the World Conference in Vienna. But the Convention on the Rights of the Child offers us not only a major opportunity to join the UN forces working for human rights, but, as I will propose later in these remarks, will inevitably require us to increase substantially the organizational, financial and political resources we commit to the promotion and defence of children's rights.

THE CASE FOR A MORE ACTIVE, PROFESSIONAL AND CRITICAL ROLE FOR UNICEF IN SUPPORT OF THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD

The main point which I will seek to develop in these remarks is that UNICEF needs, rather urgently, to strengthen its own capacity, as well as the capacities of many of our allies, including our UN partners, to play a much more active and more consistently professional role in responding to what our Executive Director, James P. Grant, described in a speech in New York in March this year as a great challenge facing all of us, within and outside UNICEF:

> *... to ensure that the spirit of the Convention and its provisions progressively work their way into policy and the legal codes and institutional life of nations, and the everyday life of individuals, families and communities.*

A second point I will emphasize is that this more active role is likely to bring us face to face with an increasing number of controversial and politically sensitive issues. My own view is that UNICEF should not duck these issues but rather face them head on and turn them to the advantage of the children requiring protection from the kinds of exploitation, abuse and neglect which provoke these controversies. This second point, however, merits considerable further analysis and debate within UNICEF, and I hope the UNICEF National Committees, which have a considerable stake in these affairs, will play an active role in the deliberations.

If one accepts this second point, then my third one follows with the force of a strong conviction: to meet this challenge of dealing with controversial issues, UNICEF needs to add an important dimension to its capacity-building and staff development efforts in the field of children's rights. This dimension relates especially to the negotiating and political skills as well as the necessary technical training and 'hands-on' experience required to address sensitive issues in a highly responsible manner to help ensure that the desired outcomes for children are achieved. We need to learn how to benefit over time, as we bring in new staff and new partners, from our own experience, as well as the experience of other UN agencies, NGOs and many other organizations concerned with human rights. Put simply, the higher the political and ethical stakes involved in human rights actions, the higher the demands on the main actors and the greater the risks that negative consequences or even disastrous blunders will result from well-intentioned but ill-advised actions.

MUST THE CONVENTION INEVITABLY LEAD UNICEF INTO CONTROVERSY?

The answer to this question is probably 'no'. The proponents of the Convention and most human rights activists have been, in fact, emphasizing the non-confrontational nature of this new human rights treaty and the non-adversarial character of its implementation procedures. Unlike a number of other human rights instruments, moreover, this Convention has no optional protocol allowing for formal complaints. And of course there is no real enforcement machinery to turn controversial issues involving gross violations of rights into effective remedies or rehabilitation of the children who are victimized. Accordingly, UNICEF could remain on the sidelines of any controversies generated by the Convention, occasionally playing a role of 'quiet diplomacy' well behind the scenes, but largely leaving that question up to the judgement and initiatives of our individual country Representatives or the top management of UNICEF.

We also need to keep reminding ourselves and our partners that the Convention deals with a great many essential rights of children, especially

in the areas of education, health, nutrition, water and sanitation, which are not controversial in the way that some issues concerning the protection and participation rights of children may be. Immunizing infants or providing children at risk of dying from dehydration with life-saving oral rehydration salts are hardly cause for controversy compared with matters such as eliminating child labour, addressing the sexual exploitation of children, or confronting enraged and warring parties with demands for special protection for women and children during armed conflicts. By continuing to concentrate most of our resources, as I think we should, largely on the 'silent emergencies' of daily undernourishment, disease and lack of basic education affecting scores of millions of children, UNICEF will not only be making a major contribution towards the implementation of the articles of the Convention concerned with child survival and development, but will also help to alleviate the appalling human conditions which contribute to the outbreak of the 'loud emergencies'. The armed conflicts and related violence which accompany these loud emergencies result, as we have seen most dramatically in the Horn of Africa, in terrible violations of all human rights, including those of children.

Although the Convention does not necessarily mean that UNICEF will or should become more involved in controversial issues, I would argue that we will. My view, moreover, is that this trend is desirable as well as likely to happen in any event. It is desirable most importantly for straightforward moral reasons. The twentieth century must not be allowed to close with the world's leading agency for children turning its back on the kinds of human degradation which are so painfully evident in the horrors faced by child prostitutes; children working in mines, garbage dumps or in bonded labour; girl children raped by soldiers on the command of their officers; street children murdered by off-duty security personnel; children tortured while their parents are forced to watch and vice versa; children kidnapped and adopted by the families of secret police forces after the forced 'disappearance' of their parents – to mention only a few of the more unbelievable acts of cruelty human beings have inflicted on children during recent decades. Our so-called civilization, however defined in different cultures, simply cannot hold any claim to respect for human dignity if these kinds of practices affecting its most defenceless citizens are allowed to continue unchecked. In drawing attention to the latest report of the UN Special Rapporteur on the sale of children, child prostitution and child pornography, Mr. Grant summed up this ethical point quite forcefully in his March 1993 speech in New York: "Such degradation and exploitation ... must not be permitted or condoned on the eve of the 21st century".

Why do I think it is likely, as well as appropriate, that UNICEF will be asked to become more involved in addressing some of the controversial issues that will be raised by the implementation of the 1989 Convention? My first reason is reflected in two brief provisions in the Convention which have not yet attracted widespread attention but which will have enormous impact once human rights groups, concerned NGOs, UNICEF and others begin to press hard on these points. The undeniable significance of the first of these, contained in Article 42 of the Convention, has been noted by one member of the UN Committee on the Rights of the Child, Marta Santos Pais:

> *For the first time in the history of the United Nations human rights treaties, this instrument has a specific provision establishing the need for the State to make the Convention's principles and provisions widely known, to adults and children alike*[2].

The second provision, in Article 44, also unusual in UN human rights conventions, requires simply that:

> *States Parties shall make their reports widely available to the public in their own countries.*

The general guidelines the Committee adopted regarding the initial reports by States provide that the process of preparing these reports "should be one that encourages and facilitates popular participation and public scrutiny of

2 "The Rights of the Child", *Children in Focus*, UNICEF Caribbean Area Office, vol. 5, no. 1, January-March 1993, p. 10.

government policies". The Committee has also begun to adopt working procedures which will facilitate NGO and media involvement in the review and analysis of States Parties' reports. Committee members, furthermore, have been actively encouraging a close working relationship with UNICEF in terms of these and other relevant articles of the Convention.

Given the publicity and attention among NGOs and others which the Convention is already generating in many countries, combined with the growing concern for human rights which is beginning to emerge in this post-Cold War period, it is very unlikely that gross and systematic violations of the rights of children, news of which can be carried with incredible speed through the international mass media, will allow any of the major actors concerned with the Convention to remain on the sidelines. In fact, just as we are seeing that it is virtually impossible for an organization such as UNICEF to stand aside in the face of the atrocities being perpetrated in the former Yugoslavia, it may become a challenge for UNICEF and some of our partners to keep calling adequate attention to the less visible child victims of violations of the Convention: from the young girl child with no access to education, to those millions of children who die or remain permanently disabled from the gradual but relentless effects of hunger, malnutrition and disease – those who, in the words of Coleridge, will merely "die so slowly that none call it murder".

The second main reason why UNICEF will not be able, even if it were desirable, to avoid addressing in some manner many of the more controversial issues the Convention raises, relates to the very specific reference to UNICEF in Article 45. This article cites UNICEF, together with "the specialized agencies" and "other United Nations organs" – but only UNICEF by name – in relation to four different responsibilities, each one of some significance:

- entitling UNICEF to be represented at the consideration of the implementation of provisions of the Convention that fall within its mandate;
- providing that the Committee on the Rights of the Child may invite UNICEF to provide expert advice on the implementation of the Convention;
- providing that this Committee may also invite UNICEF to submit reports on implementation in areas falling within the scope of its activities;
- requiring that the Committee transmit to the specialized agencies, UNICEF and other competent bodies, any reports from the States Parties that contain a request, or indicate a need, for technical advice or assistance.

These specific references to one UN organization are rather unusual in an international human rights instrument of this sort. The two International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, for example, refer in their implementation articles only in general terms to "specialized agencies" or "the various organs of the United Nations" (although ILO is mentioned in Article 8 of the Covenant on Economic, Social and Cultural Rights, and of course in the many separate international instruments dealing with labour issues). Similarly, the Convention on the Elimination of All Forms of Discrimination against Women contains only a very general reference to the "specialized agencies" in a manner considerably less specific than the reference to UNICEF and other organs in Article 45 of the Convention on the Rights of the Child.

Although there are a variety of ways that both old and new kinds of controversial issues may land on UNICEF's many doorsteps around the world, these provisions represent a qualitatively different challenge for our organization: a mandated commitment in a binding international treaty for UNICEF to respond to requests for expert advice or technical assistance which emanate either from the UN Committee on the Rights of the Child or from one of the States Parties to the Convention. If UNICEF chooses to decline to provide such advice or assistance, especially in sensitive areas of considerable public awareness, concern and scrutiny, we had better have some strong and convincing arguments for doing so!

CURRENT GUIDELINES RELATING TO UNICEF WORK IN SENSITIVE AREAS CONCERNING CHILDREN'S RIGHTS

This is not the place to delve in any detail into the current policies and guidelines of UNICEF regarding our actions in terms of what

a recent independent Evaluation of UNICEF describes as our playing a role of "critical partner" of governments. This role is defined in the Executive Summary of that Evaluation, as being "a partner willing and able to point out deficiencies in the actions and commitments of governments with regard to the needs and rights of children and women..."[3]. My own view is that this Evaluation does not sufficiently recognize that UNICEF is in fact already playing this role to a rather remarkable extent for a highly visible UN agency. Part of the problem is that, as the International Committee of the Red Cross (ICRC) demonstrates with extraordinary effectiveness, delicate human rights negotiations often cannot be accomplished through publicizing details about the nature of these operations and guidelines for action. Quite literally in some cases, an abstract quest for 'transparency' and public scrutiny of actions can result in the deaths of innocent victims of human rights abuses. Discretion and behind the scenes negotiations are often the keys to success in human rights work. Most areas of action on children's rights will be less controversial than traditional human rights activities, especially those in the fields of civil and political rights. But, as I will mention later in these remarks, that will not always be the case.

Without going into detail, let me simply cite two examples of recent guidelines in UNICEF which indicate the fairly considerable room to manoeuvre over sensitive terrain which UNICEF Representatives in the field and other senior staff have at present and, for some issues, have had for several decades.

The first example comes from the UNICEF guidelines for the preparation of situation analyses, the essential baseline studies and assessments of the situation of children in a country which represent the starting point for our multi-year country programming process. There is specific mention of the matter of "sensitive subjects" in these guidelines:

> *There may be certain topics that are not acceptable to be treated in the situation analysis, e.g. extent of malnutrition, extent of abortion, female excision, child abuse, AIDS, lack of development programmes for certain ethnic groups, etc. Government officials may not be able to join in either the collection of data, or its analysis.* ***However, the Convention enjoins upon UNICEF the responsibility to help analyze and monitor all the rights and it may be possible for UNICEF to collect data or gather them from secondary sources, and analyze them.*** *Among these subjects there may be some that are ripe for UNICEF advocacy, and it may be acceptable in the country context to disseminate those parts of the analysis. There may be other aspects which can only be reported confidentially in-house and used for confidential advocacy*[4].

What is not said in those written guidelines, nor could easily be made that explicit, is that UNICEF staff in the field, often in cooperation with non-governmental institutions, including research centres, professional associations, religious groups and the press, are able with increasing frequency not only to join forces in collecting and analysing sensitive information, but also to play a role, usually behind the scenes, in helping to encourage public awareness, scrutiny and reaction to this sensitive information.

It is evident, furthermore, that senior UNICEF staff, at least partly in response to the strengthened mandate we feel the Convention provides us, have been increasingly willing in recent years to 'go public' with controversial views on sensitive topics. A recent example is a press conference held last month in New Delhi by our Representative there, Eimi Watanabe, on the delicate issue of child labour in India. *The Guardian* (7 May 1993) covered the story with a provocative headline: "UN Joins Assault on Child Sweatshops", and the lead paragraph was not quite the way Ms. Watanabe would have written it: "UNICEF, long criticized for being too soft on India, has gone public in an offensive against the use of child labour in Indian industry." But our colleagues in New Delhi, with

3 "Strategic Choices for UNICEF", Executive Summary of the Synthesis Report 1992 (unpublished).

4 UNICEF Policy and Procedure Manual, Book D, Programme Operations, Chapter 3, Section 3, p. 3, para. 4.4, November 1992.

strong support from the Regional Office for South Asia, have obviously concluded that the time has come to assume a much more forthright stance on child labour in that region than UNICEF has taken in the past.

Our experience at the UNICEF Centre in Florence, going back to 1988, suggests that issues which in earlier years were considered too sensitive for UNICEF-funded publications, not to mention our press conferences, can now be raised more easily – we hope in a fair and responsible manner. We have received some cautionary advice, from both within and outside UNICEF, but no significant objections to what we have said or published. Examples of sensitive topics addressed in a few of our recent publications include allegations of repression against Kurdish families in Iran, Iraq and Turkey; the issue of police brutality towards street children in Brazil; the involvement of children in organized crime rackets linked to drug trafficking in Italy; and recent manifestations of an ongoing, and hopefully constructive, dialogue UNICEF has been carrying on with the World Bank for some years regarding the impact of "structural adjustment" packages in developing countries. One of a number of press commentaries on a recent publication our Centre supported entitled *Africa's Recovery in the 1990s* (Macmillan, UK, 1992) was headlined, again in the rather sensationalized manner of many newspapers: "UNICEF challenges World Bank role in Africa" (*The Barbados Advocate*, 18 April 1993). So far as I know, however, the World Bank continues to respond in a collegial – sometimes even generous – manner to the issue of our differences with them on the impact of their policies on children and other vulnerable groups. If press reports about a speech in Washington last month by the Bank's Vice President for Africa are accurate, one might even imagine that some of the Bank's senior officials are beginning to agree with UNICEF!

But I am straying from my main point here, which concerns current UNICEF guidelines for action in controversial areas. The complexity of this issue is well illustrated by an Executive Directive to UNICEF staff issued by Mr. Grant with a copy of a letter, possibly the first of its kind from UNICEF, which he sent in February 1993 to the Chairman of the UN Commission on Human Rights, formally adding "UNICEF's voice to the revulsion against the increasing use of rape, humiliation, and violence against children and women in conflict situations". This letter was prompted, of course, by the atrocities committed in the former Yugoslavia. I would hope you will bear with me while I quote the last two paragraphs of Mr. Grant's instructions, since they capture well, in my view, the current and quite sensible policy, cautious though it is, regarding UNICEF's role in situations of this sort:

> *By issuing this letter I am not suggesting that UNICEF injects itself into political issues on the agendae of competent international bodies, let alone take sides on issues under investigation. However, I believe that we can and should make clear UNICEF's position in relation to the standards put forward by the Convention on the Rights of the Child and other relevant human rights instruments, as well as the mandate of the World Summit for Children.*
>
> *I ask you to consider this obligation should similar abuses be occurring in your areas of responsibility, or should there be equivalent assaults on the security and dignity of children and women as a means of terror or revenge against populations. It is advisable, however, as we carefully tread into this obligation, that you seek counsel through the Deputy Executive Directors or myself.*

I would like to move on now to explore some of the ways whereby UNICEF, in my view, can – and in fact has begun to – "tread carefully into this obligation", to use Mr. Grant's words, while at the same time protecting UNICEF's hard-earned legitimacy and vital reputation as a fair and non-partisan actor and advocate for children throughout the world. The challenges may well multiply. The world seems to be facing a growing and frightful tendency for conflicts among ethnic, racial and religious groups to escalate into vicious hatred and often indiscriminate violence. UNICEF's traditional ability to provide relief and protection to children and women on all sides of conflicts could easily come under

even more pressure in the future than it has faced in the past. It is my view that we are not yet fully prepared to meet these and other challenges relating to the protection of children's rights, within the new framework of the Convention on the Rights of the Child.

A FEW LESSONS FROM THE PAST: SOME ENCOURAGING, BUT OTHERS MORE SOBERING

Many of the controversies which UNICEF will be facing during the coming years within this new framework of the Convention are not actually such new issues for UNICEF. Those who have read the fascinating account by Maggie Black, in her history of UNICEF entitled *The Children and the Nations*, of the political, diplomatic and public relations minefields which UNICEF had to cross during the Nigerian Civil War of the late 1960s and the even more complex circumstances surrounding the Indo-China conflicts going back to the 1950s, including the horrors of the Pol Pot regime in Cambodia, should have little doubt about the political sensitivities of some of UNICEF's work or the exceptional abilities of many of our staff to negotiate their way through these explosive situations. I think, however, it is fair to say that few, if any, careful observers of these humanitarian relief efforts would argue that what was done, by UNICEF and others, even remotely approached what was really needed from the international community.

Particularly in terms of the recent and unprecedented action of the United Nations in Somalia, and speculations among statesmen and international affairs specialists about the 'limits of sovereignty', it is especially instructive to consider for a moment how UNICEF has been attempting to put into practice – in a low-key but sometimes effective way – this controversial notion that sovereignty has some limits when it comes to humanitarian relief, at least for children.

As a United Nations agency, UNICEF of course is bound by the principle of respect for sovereignty. But, as Maggie Black points out in her book:

> *At the time of UNICEF's creation, the founding fathers had insisted that no child should be seen as 'an enemy', disqualified from receiving Unicef aid; the critical phrase in the original resolution stated that assistance should be dispensed 'on the basis of need, without discrimination because of race, creed, nationality status or political belief'. By applying a certain elasticity of interpretation, Unicef had behaved for all practical purposes as if this clause, while not exempting it from the respect due to sovereignty, at least meant that it was not held up to quite the same rigorous standards of adherence as most other UN bodies. A record of working on both sides of armed civil conflict had been established since 1948 in China and the Middle East, and every time that the precedent was re-established it gained further* de facto *force.*

Ms. Black goes on to describe, in the Nigerian context, how extraordinarily difficult it was to operate on both sides of that terrible conflict, partly since it was one of the world's first civil wars where "[s]tatements, evasions, accusations unfolded along with events on a hour-by-hour, day-by-day basis in the full glare of worldwide publicity" – summed up in one emotion-laden word: "Biafra!". It may be of particular interest to this audience to recall, again as Ms. Black describes it, that the situation "was particularly frustrating for the [UNICEF] national committees whose artery of support was the public now clamouring for action on an almost unprecedented scale".

As many of you know, better than I, the Nigerian crisis divided not only that country but also the former colonial powers in Africa. Britain, in spite of intense domestic opposition, supported and provided arms to the Federal forces while France and Portugal endorsed and helped arm the rebels. (One is tempted to express a hope that Europe will not become so divided about how to deal with the violence in the Balkans!) UNICEF was often caught in all of these various and conflicting forces: incurring the displeasure of the Federal Government for providing direct relief, however modest, to civilians in rebel-held territory, while asserting we had the "tacit agreement" of the Government. Most private relief agencies, however, felt UNICEF was doing far

too little. For a mixture of reasons, perhaps only some of them to our credit, UNICEF was the only international humanitarian organization to be asked to stay after the fall of Biafra in early 1970. Ms. Black concludes:

> *[Former UNICEF Executive Director] Labouisse's caution, his almost obsessive refusal to allow UNICEF to be caught in the spotlight, had paid off ... UNICEF was in the unique position of being able to go into ex-rebel territory and contribute massively to the postwar relief and reconstruction effort.*

Some commentators have found this account insufficiently critical of UNICEF's role during the Nigerian Civil War. Ms. Black admits that controversy will continue to surround this international relief effort, probably forever. One fact which seems, however, to be widely accepted is that some two million people starved to death during this Nigerian crisis, about three quarters of them children under five years of age.

One of many questions we will face increasingly in future crises relates to the implications of the fact that now, 23 years after the end of the Nigerian Civil War, UNICEF, thanks largely to the style and skills of its current Executive Director, enjoys – but may also have to struggle with – an international spotlight, including press attention, which is unique among international organizations concerned with children and their rights. How prepared are we to operate on this new stage, cast in the bright lights of the broader range of controversies involving children's rights we are now likely to confront?

I wish there were more time here to consider some of the implications of the Indo-China conflicts. One of the frustrating aspects of the attempts by UNICEF, ICRC and others to provide relief to children on both sides of the Vietnam War stemmed from the fact that North Vietnam was not willing to request United Nations' assistance, questioning the impartiality of an organization they considered too dominated by Western interests. The dilemma for UNICEF was how to maintain its own reputation for impartiality if we provided assistance in the South but not in the North, an issue which became immensely more controversial following the beginning of the bombing of North Vietnam by the United States in February 1965. Again, Maggie Black captures the dilemmas with her characteristic directness:

> *A large portion of UNICEF's resources came from the US and its Executive Director was a US citizen. If UNICEF failed to be even-handed towards all the children of Vietnam, it risked accusation of partiality.*

Her account goes on to note that influential delegates to UNICEF's Executive Board from countries critical of the US escalation of the war, including Nils Thedin of Sweden, expressed serious reservations to Mr. Labouisse about one-sided relief efforts. Board members from countries supporting the North Vietnamese were generally opposed to relief only to the South.

Ultimately, about 15 long years after the 1954 Geneva Accords partitioning Vietnam, UNICEF was at last able to begin to provide assistance in the North, in cooperation with the League of Red Cross Societies. The role played in the delicate negotiation by a number of senior statesmen on UNICEF's Board was crucial. As Ms. Black writes, these widely respected Europeans "knew how to raise highly controversial issues in a non-controversial way". So let us mark down this point, linked to the importance of the negotiating skills of senior statesmen, as a useful lesson from UNICEF's history of dealing with very sensitive subjects, including an issue as basic as national sovereignty, at least with some success, but certainly not without many frustrations, setbacks and devastating delays in terms of the lives of children.

The examples and lessons could continue. I personally recall the importance of the negotiating skills of Mr. Grant and the professionalism of UNICEF's staff in Central America in the early 1980s when UNICEF managed to overcome the initial opposition of the Government of El Salvador to the proposition that we should help immunize children in rebel-held territory that the Government even refused, at first, to admit was controlled by the rebels. The experience of those now-famous 'days of tranquillity' also taught us that we could not have been successful without the close collaboration of the Catholic Church

(which had far easier access to the rebels' political leadership than UNICEF could have) and the on-site technical capability and experience of ICRC. Without that sort of support, and facing a very different group of rebels in Peru, UNICEF was later forced to conclude that we could do very little, if anything, for children in areas controlled, by night if not by day, by the *Sendero Luminoso* movement in that troubled country.

I would like now to shift to a very different type of controversial issue, from which I think some important lessons can also be drawn. That controversy, though quite minor compared to the intense and angry debates and protests generated by the horrible conflicts in El Salvador, Cambodia, Nigeria and Vietnam, nevertheless may have elements in common with many of the subtler issues which will arise under the Convention on the Rights of the Child. The controversy of which I speak was generated simply by a research report, written in 1983 by two distinguished social scientists based at the private CIEPLAN research centre in Santiago, Chile: Alejandro Foxley and Dagma Raczynski. Though CIEPLAN had and still has a well-established reputation in international research and development circles, like virtually all independent social science research institutes in Chile, it was viewed with considerable suspicion by the Military Regime of General Pinochet.

UNICEF had commissioned this paper as one of a number of studies coordinated by our Deputy Executive Director for Programmes, Richard Jolly and my colleague now in Florence, Andrea Cornia, on *The Impact of World Recession on Children*. Drawing on admittedly incomplete data for Chile, and noting that their results could not yet be considered definitive, Foxley and Raczynski concluded that two periods of recession in Chile, the first starting around 1974 (the year following the coup led by General Pinochet) had probably resulted in serious deterioration of the situation of children. The only significant exception they found was in terms of secondary school enrolment.

My purpose here is not to review the Foxley/Raczynski finding, although it could be argued that they underestimated the significance of the efforts made by health and nutrition officials during the Military regime to support actions which kept the infant and child mortality decline in Chile at an acceptable pace in spite of recession. What is more interesting for our purposes is the reaction of the Chilean Government to the proposed publication of this study by UNICEF and UNICEF's own response.

The reaction from Chile came at the time of the 1984 UNICEF Board meeting when the head of the Chilean delegation protested, though privately, about what the Government considered the biased nature of the Foxley/Raczynski study. He threatened to make an issue of this matter on the floor of the Board and to take unspecified steps to prevent this type of research from happening again. Following hurried consultations among senior UNICEF staff between Board sessions, Richard Jolly was charged with putting a careful proposition to the Chilean Government, summarized as follows:

> *UNICEF recognized that economic and social science inquiry inevitably involves matters of judgement and interpretation. The statistics and causal relationships are rarely crystal clear. As part of a broader international survey of the impact of world recession on children, we had done our best in choosing a responsible and independent research group in Chile to undertake the study there. The results of the study, in any event, would be accompanied by the standard disclaimer that they do not necessarily represent the views of UNICEF. The point about the desirability of the independence of the research from Government was stressed and had been maintained as much as possible on this multi-country study, including in the cases of two industrialized countries, Italy and the United States. Particularly in the latter case, the results were also not likely to please the US Government. Given the legitimate concern any Government can have, however, about the objectivity and reliability of independent research undertakings, UNICEF would be pleased to sponsor a seminar, public or private, to enable the Chilean Government's own specialist to discuss or debate the Foxley/Raczynski results with the authors, as well as other independent researchers who might have differing interpretations.*

The proposal struck the Chilean delegate as reasonable and he agreed to convey it to his Government upon returning to Santiago.

Perhaps we will never know what precisely happened to this 1984 proposal. But we do know that UNICEF never received a reply to our offer. One can plausibly assume that General Pinochet's Government decided, perhaps following a further review of the data, that the matter had best be dropped. The results were soon published by Pergamon Press in a widely circulated volume, as well as in a special issue of the journal *World Development*. One of the authors of the Chilean study, incidentally, was subsequently named – and remains – the Minister of Finance in the democratically elected Government of Chile.

Several significant points emerge from this example (as well as other similar cases we do not have time to cite). The first is the particular importance of identifying well-qualified professionals, with recognized reputations, to undertake research or situation analyses on particularly sensitive topics. These professionals need not necessarily be independent of Government, but they should be independent, if at all possible, in situations where serious doubts are justified in terms of the Government's willingness to permit objectivity and fairness within its own ranks. (I would add here as an aside, based on UNICEF and other experience in a number of countries, that useful inquiries on sensitive topics by responsible groups **outside** a country can still be encouraged even when such research is not permitted inside a country; regional rather than individual country assessments can also be helpful.) When an analysis of politically sensitive topics is conducted by governmental specialists, it is usually desirable to have an independent review of the results. Few governments (not to mention intergovernmental agencies) are genuinely inclined to encourage inquiries which may cast serious doubts on the validity of their policies and practices.

But objectivity and openness make a two-way street – or better a roundabout, rather chaotic to be sure, with multiple entries and exits. NGOs, university-based and other independent experts are not without their own professional, ethnocentric and other biases. Human rights groups, often motivated by understandable outrage at human rights violations, can easily fall into the habit of paying attention only to data and reports which confirm their worst suspicions. As Purificacion Quisumbing, a former Chairperson of the UN Human Rights Commission and human rights activist in her own country, the Philippines, has pointed out in meetings at our Innocenti Centre in Florence, human rights groups need to learn to report more frequently on successes as well as failures, on improvements in human rights situations as well as deteriorations. Even some governments with blemished records on the human rights front are not immune to improving their performance as a result of positive reports of progress made in living up to international human rights standards. Carrots may be especially useful when sticks are notoriously weak.

Finally, let me emphasize the importance of the role which UN organizations such as UNICEF can play in providing neutral ground, in public or in private, for addressing some of the conflicts separating antagonists in disputes over sensitive topics. In the Chile case cited, the Government backed off from the idea of an open airing of the disputed analysis, although it goes without saying that its control of the airwaves in Chile left the Government by no means disadvantaged in terms of publicizing its data and interpretations of the impact of social policy and recessions. But in spite of the many controversies over public policies and human rights abuses in Chile during the Pinochet Regime, there was space for UNICEF to manoeuvre. Even that Regime was not monolithic, and allies for UNICEF were found. Taking advantage of these openings, our current Deputy Director in Florence, Paolo Basurto, then UNICEF Representative in Chile, was in fact able to negotiate an extraordinary agreement with the Government which resulted in the bulk of UNICEF's programme of cooperation in Chile being channelled through NGOs, some of which were in fact open critics of the Government. Again, one needs to recognize the importance of political, diplomatic and negotiating skills and experience in addressing delicate issues of this sort.

TRAPS TO AVOID

It is very important in human rights work, as UNICEF will need increasingly to realize, to

learn to recognize and prepare for quite a number of pitfalls which stand in the way of effective human rights activism, especially by UN and other intergovernmental bodies.

Perhaps on this, the opening day of the World Conference in Vienna, it would be worthwhile to draw attention to one of the main traps facing the UN in the human rights field: the tendency, on the part of the Member States as well as many sectors of the UN itself, to confuse resolutions with action, or declarations with results. As the distinguished Italian authority on international law, Antonio Cassese, has written, UN human rights resolutions have become staggering in their numbers but largely constitute "mere paper solutions to serious problems and that no domestic authority would ever heed"[5]. Human rights work, like development cooperation, must become more results-oriented, more based on concrete implementation strategies. For the sort of work UNICEF will be involved in, we need to develop good solid planning and management tools, beginning with baseline data and thorough analyses of the situations to be addressed so that the problems are understood before they are tackled. We need goals, time frames and indicators to guide our efforts and help us monitor progress or highlight our failures. We need feedback mechanisms to correct our courses and to deal with problems in a more preventive and 'early warning' manner. In short, we need good social planning and management for human rights, including the rights of children and women. Fortunately, for many of the articles of the Convention dealing with the survival and development rights of children, we are well advanced in this process, working closely with governments and other partners on the follow-up to the 1990 World Summit for Children.

Related to this obsession with resolutions in intergovernmental bodies, which is often little more than an excuse for inaction, is a second trap: the risk of what Mr. Cassese has called the quest for "false unanimity" or paper consensuses on human rights topics. In trying not to displease any Member State or delegation of a governing body, there is too often in UN circles a watering down of decisions, not to mention reports and resolutions, which can inhibit effective action by the organization concerned. Accordingly, as Theo C. van Boven, former Director of the UN Centre for Human Rights, has written: "Many UN reports and studies suffer from lack of imagination and creativity and avoid raising the relevant issues." Mr. van Boven urges that the UN Secretariat "not content itself with mere compilation and a lowest common denominator approach"[6]. A 1984 report by Maurice Bertrand, then head of the UN Joint Inspection Unit, complained "that staff members in many cases apply a form of self-censorship"[7] inhibiting the development of initiative and constructive solutions.

UNICEF is not entirely immune from these tendencies. UNICEF has been, on the other hand, remarkably successful in keeping 'politics', in the negative sense of that word, out of its own Executive Board deliberations and management practices. Many of our more experienced Board delegates, as well as our senior management, have, as noted earlier, been exceptional in their ability to raise controversial issues in effective but non-controversial ways, thereby facilitating rather than inhibiting the desired outcomes in the process. My own fear, however, is that with time, growth, 'specialization' and the threats of bureaucratization which they help to encourage, we may risk losing some of those advantages of our Executive Board processes as well as other decision-making and management systems required to ensure effective action, just at the time, with the implementation challenges of the Convention, when we need 'senior statesmanship', flexibility, the ability to act quickly on the basis of agreed priorities and sound professional judgements. Fortunately, there is still time to respond to the new challenges.

The word 'priorities' raises another issue which is linked to a third trap I would like to refer to. It concerns the issue of the widely acclaimed universality and indivisibility of human rights. The importance of these principles is undeniable. States must not be allowed to pick and choose among human rights, boasting about progress on some while ignoring or blatantly

5 Antonio Cassese, "The General Assembly: Historical Perspective 1945-1989", in Alston, Philip, (ed.) *The United Nations and Human Rights*, Clarendon Press, Oxford, 1992, p. 51.

6 Theo C. van Boven, "The Role of the United Nations Secretariat", in Alston, Philip (ed.), *op. cit.*, p. 563.

7 *Ibid.*

violating others. The right to food, water, shelter and other essential elements of survival can be readily ensured in a gaol full of political prisoners accused of no crime. A remarkable degree of freedom of speech can coexist, for some time, with the grossest violations of the survival rights of children. The problem for UNICEF (not to mention other organizations), however, is that we cannot possibly be effective, with the human and financial resources we have available, if we are asked to be actively involved in the full range of rights covered by the Convention. We must make choices, which will be difficult and painful considering the many and diverse situations of often appalling violations of children's rights in the world today. This decision-making process should be an open and actively debated one, including responsible NGOs, our National Committees, and human rights authorities, in addition to the formal deliberations of our Executive Board and our country-level negotiations with governments. If we are careful and wise in this process, we can find ways to play an effective advocacy and promotional role regarding most, if not all, of the rights covered by the Convention. We can avoid decisions which undermine the principles of universality and indivisibility. But when it comes to committing our scarce staff resources and our limited budget, we must concentrate on a manageable number of key issues where we think we can make a difference in terms of the actual impact on the fulfilment of children's rights. These priorities can change over time and they need not, indeed should not, be the same for all countries and all situations. But neither we nor any other international agency I know of, can do everything at once, everywhere in the world.

The next 'trap' in our proverbial minefield of child rights opportunities and hazards relates to the matter of cultural and socio-political insensitivity. One could cite innumerable examples of this problem, including recent controversies involving the Vatican and Muslim teenagers and their families regarding abortion as a result of the widespread use of rape as an instrument of terror in Bosnia, or some women's rights activists in the West lecturing their young African and Asian sisters about the evils of religious fundamentalism. But I would rather cite an illustration closer to facts I know from personal involvement. It concerns what could plausibly be argued is the most powerful agency in the extended UN family, the World Bank, and the promotion of family planning in Colombia, a still-sensitive subject in some parts of the world. Family planning was dear to the heart of Robert McNamara when he was President of the Bank. It was also deemed essential for development by the Government of Colombia, beginning with the Administration of President Carlos Lleras Restrepo in the late 1960s. According to one of the key government officials involved in the delicate political negotiations in Colombia, including the Catholic Church, about a national family planning policy, Mr. McNamara wanted to put the full weight of the World Bank behind the family planning movement in Colombia. The polite reply from the Colombian Government was that the best contribution to the promotion of family planning the World Bank could make in Colombia, at that time, was to stay well away from this sensitive issue. Fortunately the Bank agreed. Subsequently, Colombia became one of the first Latin American countries to introduce a full range of family planning services into its regular programmes of maternal and child health. Another lesson for consideration: outsiders can often play useful, even critical, roles in encouraging positive changes concerning human rights and other key areas of social policy. But they must think carefully about their strategies and their timing, as well as the ideological and cultural baggage they carry. Very importantly, moreover, they need to closely coordinate their efforts with appropriate local allies in the country itself.

My last word of caution – and many more could be added! – relates to the danger that both geo-political and private economic interests can get too tied up with human rights questions. Before developing this point, however, it is important to refer briefly to another and related danger: a tendency in human rights circles, in part due to the fact that international human rights treaties are agreed upon by States, to assume that governments are either the sole violators of rights or the key to solving all problems of human rights. There is an element of this thinking in the recent independent Evaluation of UNICEF to which I referred earlier. In pressing for a more active human rights role for UNICEF, this Evaluation poses the dichotomy of a "favoured partner" vs. "critical partner" role for

UNICEF vis-à-vis governments. This dichotomy oversimplifies and clouds the complexity of the range and number of major actors in the human rights field, on both the positive and the negative side of the equation. UNICEF has and will continue to have an exceptionally wide range of contacts and collaborations with many sectors of the civil societies where we work, as well as with governments. These relationships will be especially important in terms of the Convention on the Rights of the Child given the unusually active role which NGOs played in the drafting and promotion of ratification of this instrument, and are expected to continue to play in the implementation processes in many countries, as well as at the international level.

To return to my main point, however, implementation strategies to reach the causes of violations of the rights of children, as well as to deal with consequences, must often include efforts extending far beyond the actions or inaction of individual governments. Among other forces, our 'global economy' is increasingly relegating governments to the sidelines on some important issues relating to human rights. In terms, for example, of the child's rights to survival in Article 6 of the Convention, and to health, in Article 24, some of the major problems lie in the powerful private sectors, as well as at the family and household levels, rather than in the public sector as such. The actions of the infant formula companies, as well as the practices of paediatricians, have been partly responsible for the disappointing results that many governments and others have had in promoting breastfeeding. The medical profession and the pharmaceutical companies have hardly been in the forefront of promoting greater availability and use of the very inexpensive oral rehydration salts. The tobacco industry, as well as some sectors of the television industry, are not child-friendly forces in the world today.

On the more positive side, in some countries, the media, professional associations, religious groups and other NGOs have been able to do much more than governments in overcoming the opposition of elements of the public and private sectors with interests counter to the survival and healthy development of children. Independent human rights organizations, public interest law groups, consumer advocacy movements and many others have an enormous potential for effective action for children's rights. UNICEF needs to learn how to work more effectively with these new kinds of allies, recognizing that our agendas will not always be the same but can be sufficiently complementary to warrant close collaboration.

A number of industrialized countries are facing an important policy issue which requires a careful analysis of the options with an eye towards the complex public-private sector dynamics underlying one of the major violations of children's rights in the world today: the continued and probably increasing use of children in hazardous and other exploitative forms of child labour which are harmful to the child in ways enumerated in Article 32 of the Convention. The issue concerns the boycotting of imports from countries producing these goods with child labour. One such example is the proposed Harkin bill (introduced unsuccessfully in the US Congress last year as the Child Labour Deterrence Act of 1992). While in general, I find myself sympathetic to this kind of international pressure (which is already showing signs of effectiveness in the much more straightforward case of international sex tourism involving young girls often forced into prostitution), considerable care is needed in both the drafting and the enforcement of legislation concerning international boycotts and import restrictions of this sort. The interests which lie behind some of these initiatives may have little to do with professed concerns for human rights. A Latin American colleague of mine once stated that it is much easier for industrialized countries to defend the human rights of people from countries which produce fruit, shoes or textiles than which produce oil. As Philip Alston has pointed out in a recent article in the *Human Rights Quarterly*, there is some reason to suspect, at least in the US case, that the alleged concerns for fair labour practices, including on the issue of child labour, are little more than "a form of thinly concealed protectionism". The US position, hopefully to be revised by the Clinton Administration, is cited as an example of 'aggressive unilateralism' on the part of a State which has failed to ratify most of ILO's basic human rights conventions, while at the same time invoking their principles in an attempt to punish alleged offences in other countries[8].

8 Philip Alston, "Labor Rights Provisions in US Trade Law", *Human Rights Quarterly*, vol. 15, no. 1, February 1993, pp. 1-35.

To make this issue even more complex, a recent article from the *Times of India* (11 February 1993) states that a "fear of the loss of profits" caused by the proposed Harkin bill in the US, together with similar measures reportedly under consideration in Germany and the UK, "has prompted the India carpet manufacturing organizations to activate themselves to eliminate child labour from the carpet industry". This particular drama is far from over. And the question of how and to what extent UNICEF should be involved in delicate issues of this nature is far from resolved.

As UNICEF and our allies tread through the thickets of sensitive issues of children's rights, we will need to be well informed and competent in our understanding of these complex questions, in choosing our allies, picking our priorities, crafting our strategies, and – whatever we do or choose not to do – avoid falling into one of these many traps which could damage UNICEF's hard-earned legitimacy and international reputation for fair and impartial advocacy, service delivery and other actions for children in need. One way to avoid these traps will be to strengthen substantially our institutional capacity to learn the lessons of our own past but also to learn from the rich heritage of the many UN and other organizations which have far more experience on some of these questions than we have.

CONCLUSIONS

Let me conclude not so much by summarizing what I have already said, but by drawing attention to a few critical points.

Although UNICEF neither is nor should try to become an international agency with a primary focus on human rights, the Convention on the Rights of the Child nevertheless offers us a truly historic opportunity to add a much-needed and greatly strengthened human rights dimension to our programmes, not only in the developing countries but also in our work for children, with the UNICEF National Committees and other partners, in the industrialized world. This challenge, incidentally, to find an appropriate role for UNICEF concerning the Convention in the industrialized countries, as we have been exploring in Florence, is very important for our Organization in terms of the principle of the universality of human rights and our need to be even-handed, North and South, in our work for children's rights.

UNICEF, in my view, neither can nor should attempt to stay clear of all the controversial issues which are already arising – and will arise more and more frequently – as efforts intensify worldwide, often spearheaded by NGOs and the media, to press for effective implementation of the new Convention.

But the issues before us are exceedingly complex and the traps or pitfalls lying in the path to success are many and varied. Like any public agency, or private enterprise for that matter, we will inevitably face unpleasant trade-offs between the dictates of our evolving mandate and our conscience, on the one hand, and such facts of life as 'politics', our relations with our major donors, governmental sensitivities, the cultural biases we all carry with us, and the substantial limitations we face in terms of our human and financial resources.

We need to work much harder, however, to strengthen our capacities to ensure that we start this new leg of UNICEF's journey on the high moral ground the Convention challenges us to occupy. We (and this "we" now pertains to the whole UN system) must do better at overcoming this dreadful tendency in bureaucracies towards instinctive caution and self-censorship ('just in case, play it safe'), assuming that our professional advancement or job security is best served by avoiding controversies, and confusing controversy with meddling in 'politics'.

Our Regional Director for South Asia, Karl-Eric Knutsson, addressed this issue of politics, in the negative sense of the word, in a recent interview, published in the current issue (April-June 1993) of *First Call for Children*, dealing with gender inequities and the girl child in that region. On sensitive issues such as these, and others he sees arising with the Convention, Mr. Knutsson notes:

> *... strong advocacy by an international organization can easily be labelled as meddling in politics and taking sides. I have, personally or professionally, no difficulty in saying that the whole business of UNICEF is to take sides. Working for the weak is a political decision. However,*

it is not a national or party-political stance that we are taking ...

Recently, Philip Alston drew my attention to a 1969 comment of Sir Robert Jackson in describing a sister agency in the UN family (whose name I will refrain from mentioning, since, now at least, they deserve more credit!) as "an organization without a brain". Mr. Alston adapts that notion to warn the UN against becoming "an organization without a conscience". I would simply add a corollary; that the right combination of brains and conscience can be a very powerful tool for effective work in the field of human rights. One without the other, either way, can be a prescription for disaster. The combination of good intentions and stupidity can be the most disastrous of all flaws.

The United Nations, staffed by international civil servants, requires more of its staff working on human rights than brains and conscience. These traits must be combined with yet another set of qualities: an ability to base actions on a solid understanding of the relevant conventions – the 'law' – and on a fair and objective interpretation of the facts – an ability, in the somewhat misleading jargon of this subject, to be 'neutral', or impartial.

Dag Hammarskjöld addressed this complex issue of "neutrality" in his Oxford lecture of May 1961 on "The International Civil Servant in Law and Fact". (Theo C. van Boven has an interesting discussion of this lecture, with some subtle reinterpretations of his own, in the volume edited by Philip Alston, cited earlier.) Hammarskjöld noted:

If a demand for neutrality is made ... with the intent that the international civil servant should not be permitted to take a stand on political issues, in response to requests of the General Assembly or the Security Council, then the demand is in conflict with the Charter itself. If, however, 'neutrality' means that the international civil servant, also in executive tasks with political implications, must remain wholly uninfluenced by national or group interests or ideologies, then the obligation to observe such neutrality is ... basic to the Charter concept of the international civil service ...

Mr. van Boven goes on to quote Hammarskjöld in a passage which ends with the point close to one on which I would like to conclude my remarks:

It is obvious from what I have said that the international civil servant cannot be accused of lack of neutrality simply for taking a stand on a controversial issue when this is his duty and cannot be avoided. But there remains a serious intellectual and moral problem as we move within an area inside which personal judgment must come into play.

A major challenge the 1989 Convention poses to UNICEF, as well as to our partners, especially within the UN system, is tied to the complexities of those key and inevitably somewhat ambiguous words of "neutrality", "duty", "intellectual and moral", all eventually linked to issues of "personal judgment".

Time is too short even for a brief listing of the many steps which might be taken by the United Nations, including UNICEF, to build up this proverbial third leg I mentioned at the outset relating to our capacities in the field of human rights. More effective resource mobilization (mobilizing organizational and political resources, as well as developing new funding sources), at all levels of society, is one challenge, for example, about which we are especially concerned in Florence. We all look forward to hearing what ideas emerge from Vienna, as well as from the much-needed broader efforts to reform the UN system.

I would close with a call simply for what I fear may sound like a terribly old-fashioned but still valid set of ideas related to the over-used term of 'capacity-building': a much higher priority for staff training, professional exchanges of experience, building institutional memories for learning from the lessons of the past, developing effective and user-oriented information systems, promoting staff development along sensible lines of clear accountability and serious plans for professional advancement which encourage creative responses to difficult and sensitive issues rather than rewarding the practice of 'playing it safe'.

UNICEF is beginning to do some of this work 'in-house' to meet the particular require-

ments of the 1989 Convention. I would suggest, however, that the UN needs to face its capacity-building for human rights responsibilities on a better-coordinated, system-wide basis. It might make sense to consider establishing a new United Nations Human Rights Institute, a sort of advanced staff college for human rights officials, drawing on some of the best practices of international institutions such as the World Bank's Economic Development Institute, the ILO's training and research work, the training programmes of ICRC, to strengthen substantially the current efforts of the UN Human Rights Centre in Geneva.

All the conventional tools for institutional development I have mentioned, plus a number of other good management practices, need to be brought to bear – in the values vacuum of today's world – much more systematically, not just in the quest for private profit, where they have been taken at times to absurd extremes in the great rush to increase economic productivity and competitiveness, but rather for what is surely an equally worthy cause: the advancement of human rights worldwide. So let us put our heads and our hearts together in a bold new effort to strengthen our collective capability to think and to act with that crucial combination of our brains, our conscience, and our professional understanding of the basic elements of fairness and objective interpretation of the facts, essential in international human rights law, to make sure that ultimately that factor of "personal judgment" to which Dag Hammarskjöld referred produces the very best results we can offer in the human rights work of the United Nations. We have a long way to go. But there is no other way to go, professionally or morally.

I thank you all very much indeed; and I am most grateful to the UK National Committee for the honour of your invitation to deliver this Annual UNICEF Lecture.

The UNICEF International Child Development Centre, often referred to as the *Innocenti Centre*, was established in Florence in 1988 to undertake and promote policy analysis and applied research; to provide a forum for international professional exchanges of experience; and to advocate and disseminate ideas and policies for achieving agreed goals relating to the rights and well-being of children. The Centre is housed within the *Spedale degli Innocenti*, a foundling hospital that has been serving abandoned or needy children since 1445. Designed by Filippo Brunelleschi, the *Spedale* is one of the outstanding architectural works of the early European Renaissance.

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THE RIGHTS OF CHILDREN
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